

## CHAPTER II : MINISTRY OF COMMERCE AND INDUSTRY

### Department of Commerce

#### 2.1 Payment of compensation on leased accommodation due to improper maintenance

**Improper maintenance of a fully furnished apartment leased to the Ambassador, (World Trade Organisation) at Geneva led to avoidable payment of compensation of Swiss franc 183,500 (Rs. 67.96 lakh) to the owner of the property.**

Ministry of Commerce (MOC) accorded sanction (February 2002) to the Permanent Mission of India (PMI) in Geneva for hiring an apartment for use as Embassy Residence by the then Ambassador (WTO) at a monthly rental of Swiss franc 24,500. A lease contract was concluded in March 2002 which came into force from 01 April 2002 and was valid up to 31 March 2005. The lease was subsequently extended up to 30 April 2005.

An incoming inventory was prepared in March 2002 by the Swiss Government appointed specialised authority at the time of taking possession of the apartment. The inventory consisted of paintings, decorative items, furniture, furnishings, crockery, cutlery, various domestic articles etc.

Final inventory undertaken in April 2005 by the same Government appointed specialised authority at the time of handing over possession of the property revealed that several of the valuable articles and expensive paintings were either missing or damaged. Besides, the estate agent of the property owner alleged that the floors, walls and roof of the rented apartment were damaged.

The owner of the property held the Mission responsible for the alleged condition of the apartment and demanded that the cost of repairs, restoration of the accommodation and also the loss of rent for the period during which the restoration work was undertaken should be paid by the Mission. The Mission, however, viewed the demand of the property owner to be unjustified and opined that the jobs requested by the property owner amounted to complete renovation of the apartment.

The property owner subsequently claimed (September 2005) Swiss franc 238,572 from the Mission towards repair works in the apartment and loss of rents during the works. As the Mission refused to settle the due amount, the property owner filed a payment claim in March 2006 against the Mission in the Commission for Arbitration in leasing and renting matters, Geneva.

The Mission belatedly realised in September 2006 that the property owner had a definite case against it, duly supported by authenticated inventory carried out both at the time of initial occupation and termination of the lease, as well as proper quotations and invoices for repairs and replacements and, therefore, there was little scope to escape liability for the damages caused to the rented apartment as well as for several missing articles. The Mission eventually ended up paying (December 2006) a compensation of Swiss franc 183,500 (Rs. 67.96 lakh) to the property owner in full and final settlement of the case *via* an out-of-court settlement.

The matter was referred to both Ministry of External Affairs and MOC in June 2007 for comments. The MEA stated in July 2007 that it had no comments to offer and the Audit paragraph may be treated as having been transferred to MOC. The MOC stated in July 2007 that most of the missing/damaged items were either glass or plastic items and since no scale of furniture had been prescribed for the HOM<sup>1</sup> it was difficult to say whether the Ambassador (WTO) was entitled to them or not. The MOC further stated in October 2007 that the matter relating to missing/damaged articles from the said apartment was got investigated by deputing two officers to PMI, Geneva in July 2007. The investigation revealed the following:

- (i) There was no system in place in PMI, Geneva to manage property affairs. At every stage, things were taken very casually. Had the concerned officers performed their duties in a responsible manner there would have been no occasion to put the Government of India in an embarrassing position and to incur the pecuniary loss on account of payment of compensation.
- (ii) The HOM had sufficient time to check the inventory when the then Ambassador occupied the apartment. However, no inspection of inventory was conducted during that period. Further, the HOM did not challenge the issue of missing items at any stage. This indicated that some of the items were indeed missing.
- (iii) It cannot be said that the officer occupying the accommodation was not aware of the rules on the subject. But, it was the responsibility of the Mission to ensure compliance of all relevant rules from time to time. The Mission, however, failed to perform its function in ensuring compliance of Rules.

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<sup>1</sup> Head of Mission

- (iv) Contracts concluded by the Mission were not properly monitored, inventories were not conducted in a timely manner and repairs, as provided for in the contracts, were not ensured.

The findings of the MOC are plain testimony to the fact that the property hired for use by the then Ambassador was not maintained in an appropriate manner despite clear provisions in the IFS (PLCA)<sup>2</sup> Rules governing upkeep and maintenance of leased accommodation. Consequently, a compensation of Rs. 67.96 lakh had to be paid to the property owner, which was largely avoidable.

MEA may investigate and fix responsibility for the lapses in this case and direct its Missions abroad to pay special attention to the upkeep of the leased properties by enforcing the mutual obligations laid down in the lease deeds, in order to avoid disputes with the landlords and consequent embarrassment to the Government of India.

## **Department of Industrial Policy and Promotion**

### **2.2 Recovery at the instance of Audit**

**An amount of Rs. 1.52 crore, irregularly transferred to the Jammu and Kashmir Development Finance Corporation, was recovered at the instance of audit.**

In terms of the New Industrial Policy and other concessions for the state of Jammu and Kashmir (J & K) notified by the Department of Industrial Policy and Promotion (DIPP) in June 2002, the Jammu and Kashmir Development Finance Corporation (JKDFC) was to be set up with a one time Central assistance of Rs. 50 crore to act as the nodal agency for routing the subsidies/incentives under various schemes notified under the new Industrial Policy and to provide financial support and services aimed at industrialisation of the state.

Since it was taking some time to set up the JKDFC, DIPP, however, designated (August 2003) J & K State Industrial Development Corporation (SIDCO) as the interim nodal agency for routing the subsidies/incentives. Subsequently, DIPP released a sum of Rs. 50 crore<sup>3</sup> to J&K SIDCO as contribution of the Central Government with the condition that the funds should be kept in a separate account for contributing to the equity of JKDFC

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<sup>2</sup> Indian Foreign Service (Pay, Leave, Compensatory Allowance and Other Conditions of Service) Rules.

<sup>3</sup> Rs. 12.71 crore and Rs. 37.29 crore in March and November 2004 respectively.

until it was set up. The JKDFC was incorporated in May 2005 as a Company under the Companies Act, 1956.

In June 2005, J&K SIDCO informed DIPP that they had, in the meantime, incurred an expenditure of Rs. 0.54 crore towards preliminary expenses on setting up the JKDFC and were awaiting instructions from the State Government for transferring the balance amount of Rs. 49.46 crore to the newly incorporated JKDFC.

While regularising the preliminary expenses, DIPP asked (August 2005), J&K SIDCO to make up the shortfall in the amount of Rs. 50 crore out of the interest earned thereon from time to time and to transfer the funds and the balance amount of interest to the Managing Director, JKDFC alongwith the details of preliminary expenses incurred.

In this connection, Audit pointed out (August 2005) that since the Central Government's commitment was limited to Rs. 50 crore as per the Ministry's notification dated 14 June 2002, the action of DIPP in allowing J&K SIDCO to incur the preliminary expenses out of the interest earned by them on the Government grant before incorporation of JKDFC and to transfer the balance amount of interest to JKDFC was irregular. DIPP, while accepting Audit's viewpoint, asked (October 2005) the State Government to refund pre-incorporation interest.

The JKDFC has since refunded (November 2006) an amount of Rs. 1.52 crore to the Government of India at the instance of audit.